

Elizabeth King
59 Bel Air Drive
New Milford, CT 06776

**STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING**

State of Connecticut
Department of Public Health

vs.

Elizabeth King, RN
Registered Nurse License No. R53033
respondent.

CASE PETITION NO. 981014-010-067

MEMORANDUM OF DECISION

Procedural Background

The Board of Examiners for Nursing (hereinafter "the Board") was presented by the Department of Public Health (hereinafter "the Department") with a Statement of Charges and Motion for Summary Suspension dated October 28, 1998 (Dept. Exh. A). The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Elizabeth King (hereinafter "respondent") which would subject respondent's Registered Nurse license to disciplinary action pursuant to the General Statutes of Connecticut.

Based on the allegations in the Statement of Charges and accompanying affidavits and reports, the Board found that the continued nursing practice of respondent presented a clear and immediate danger to public health and safety. On November 4, 1998, the Board ordered, pursuant to its authority under §4-182(c) and §19a-17(c) of the General Statutes of Connecticut, that the Registered Nurse license of respondent be summarily suspended pending a final determination by the Board of the allegations contained in the Statement of Charges. Dept. Exh. A.

The Board issued a Notice of Hearing dated November 4, 1998, scheduling a hearing for November 18, 1998. Dept. Exh. A.

Respondent was provided notice of the hearing and charges against her. Department Exhibit A indicates that the Notice of Hearing and Statement of Charges were delivered to respondent's address of record by Deputy Sheriff on November 12, 1998.

The hearing took place on November 18, 1998, in Room 2A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut.

Respondent was present during the hearing but was not represented by counsel. Tr., November 18, 1998.

Respondent verbally answered the Statement of Charges and stipulated that the Statement of Charges are true and accurate. Dept. Exh. C; Tr., November 18, 1998, pp. 15-18.

Each member of the Board involved in this decision attests that he/she was present at the hearing or has reviewed the record, and that this decision is based entirely on the record, the law, and the Board's specialized professional knowledge in evaluating the evidence.

Findings of Fact

Based on the testimony given and the exhibits offered into evidence, the Board makes the following Findings of Fact:

1. Respondent was issued registered nurse license number R53033 on August 9, 1996. Pursuant to a Prelicensure Consent Order dated July 31, 1996 respondent's Registered Nurse license was immediately placed on four years probation. The probation was based on respondent's diversion of the controlled substances Demerol, Morphine and Percocet while working under a temporary Connecticut nursing license between January and May 1996. Dept. Exhs. A-C and C; Tr., November 18, 1998, p.17.
2. The probation of respondent's registered nurse license prohibited respondent from using controlled substances unless prescribed to her by her treating physician; that respondent submit to random urine screening the results of which were to be negative for the presence of controlled substances; and that respondent cause reports to be submitted to the Department indicating respondent was able practice with reasonable skill and safety and in a controlled substance free state. Dept. Exhs. A-C; November 18, 1998, pp. 17-18
3. During 1998, respondent was employed as a registered nurse at New Milford Hospital New Milford, Connecticut. Dept. Exh. C; Tr., November 18, 1998, p. 15.
4. During 1998, while working as a registered nurse at New Milford Hospital, respondent failed to properly document and/or falsified her time on time sheets. Dept. Exh. A-D2, B and C; Tr., November 18, 1998, pp. 15-16.
5. During September 1998, respondent abused and/or utilized to excess the controlled substance Demerol. Respondent did not have a prescription for Demerol. The Demerol respondent abused was prescribed to the mother of a friend. Dept. Exh. A-D2; Tr., November 18, 1998, p. 12.

6. On September 17, 1998, respondent submitted a urine specimen for drug/alcohol testing. The results of the testing were positive for the presence of the controlled substance Demerol. Dept. Exh. D.
7. During September-October 1998, while working as a registered nurse at New Milford Hospital, respondent exhibited sluggish behavior and a lack of motivation. Dept. Exh. A-D2.
8. From on or about October 3, 1998 to November 9, 1998 respondent underwent inpatient treatment for chemical dependency relapse and depression. Tr., November 18, 1998, p. 13.

Conclusions of Law and Discussion

In consideration of the above Findings of Fact, the following conclusions are rendered:

Elizabeth King held a valid Registered Nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Notice of Hearing and Statement of Charges sufficiently provided legal notice as mandated by the General Statutes of Connecticut §4-177(a) and (b), and §4-182(c). The hearing was held in accordance with Chapters 54 and 368a of the General Statutes of Connecticut as well as §19a-9-1 through §19a-9-29 of the Regulations of Connecticut State Agencies.

The Notice of Hearing, Statement of Charges and the hearing process provided respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of license as required by the General Statutes of Connecticut §4-182(c).

The Department bears the burden of proof by a preponderance of the evidence in this matter.

COUNT ONE PARAGRAPH 3 of the Statement of Charges alleges that while working as a registered nurse at New Milford Hospital, New Milford, Connecticut during 1998, respondent failed to properly document her time and/or falsified her time.

COUNT ONE PARAGRAPH 4 of the Statement of Charges alleges that while working as a registered nurse at New Milford Hospital, New Milford, Connecticut during September 1998, respondent abused or excessively used Demerol.

COUNT ONE PARAGRAPH 5 of the Statement of Charges alleges that Respondent suffers from a mental illness which does and/or may affect her practice as a registered nurse.

COUNT ONE PARAGRAPH 6 of the Statement of Charges alleges that respondent's abuse of Demerol does, and/or may, affect her practice as a registered nurse.

Respondent admits Paragraphs 3, 4 and 6. Regarding Paragraph 5 respondent admits she suffers from a mental illness but denies that the mental illness affects her practice as a registered nurse. Dept. Exh. C; Tr., November 18, 1998, pp. 15-16.

The General Statutes of Connecticut §20-99 provides in relevant part:

(a) The Board of Examiners for Nursing shall have jurisdiction to hear all charges of conduct which fails to conform to the accepted standards of the nursing profession brought against persons licensed to practice nursing. After holding a hearing . . . said board, if it finds such person to be guilty, may revoke or suspend his or her license or take any of the actions set forth in section 19a-17 . . . (b) Conduct which fails to conform to the accepted standards of the nursing profession includes, but is not limited to, the following: . . . (2) illegal conduct, incompetence or negligence in performing usual nursing functions . . . (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals; (6) fraud or material deception in the course of professional services or activities. . . .

Based on its findings, and respondent's admissions the Board concludes that respondent's conduct as alleged in Count One Paragraphs 3, 4, and 6 of the Statement of Charges is proven by a preponderance of the evidence presented. The Board further concludes that said conduct constitutes violations of the General Statutes of Connecticut §20-99(b)(2)(5) and (6). Therefore, respondent's registered nurse license is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

With regard to Paragraph 5, the Board concludes the Department did not present sufficient evidence to prove this charge. Therefore, Count one Paragraph 5 of the Statement of Charges is dismissed.

COUNT TWO of the Statement of Charges alleges that while subject to probation of her registered nurse license, as set forth in a Prelicensure Consent Order dated July 31, 1996, respondent violated the terms of probation in the following ways:

- During September 1998, respondent utilized Demerol that was not authorized by her treating physician;
- On or about September 17, 1998, respondent's urine tested positive for Demerol;
- During September-October 1998, there were noted irregularities in respondent's demeanor and conduct.

Respondent admits these charges. Dept. Exh. C; Tr., November 18, 1998, pp. 17-18.

Based on its findings, and respondent's admissions the Board concludes that respondent's conduct as alleged in Count Two of the Statement of Charges is proven by a preponderance of the evidence presented. The Board further concludes that said conduct constitutes a violation of the probation of her registered nurse license as set

forth in a Prelicensure Consent Order dated July 31, 1996. Therefore, respondent's registered nurse license is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

Order

Pursuant to its authority under §19a-17 and §20-99 of the General Statutes of Connecticut, the Board of Examiners for Nursing hereby orders the following:

1. That the Summary Suspension of respondent's Registered Nurse license, No. R53033, shall be vacated retroactive to June 1, 1999.
2. That for Count One and Count Two of the Statement of Charges, respondent's Registered Nurse license, No. R53033, shall be placed on probation for a period of four (4) years retroactive to June 1, 1999.
3. If any of the following conditions of probation are not met, respondent's Registered Nurse license may be subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.
 - A. During the period of probation the Board shall pre-approve respondent's employment or change of employment within the nursing profession.
 - B. Respondent shall provide a copy of this Memorandum of Decision to any and all employers if employed as a nurse during the probationary period. The Board shall be notified in writing by any employer(s), within thirty (30) days of the commencement of employment, as to receipt of a copy of this Memorandum of Decision.
 - C. Respondent shall not administer, count or have access to controlled substances, or have responsibility for such activities in the course of nursing duties during the first year of working as a nurse during the probationary period.
 - D. If employed as a nurse, respondent shall cause employer reports to be submitted to the Board by her immediate supervisor during the entire probationary period. Employer reports shall be submitted monthly during the first and second years of the probationary period, and quarterly during the third and fourth years of the probationary period. Employer reports shall commence on the first business day of the month following employment as a nurse.

- E. The employer reports cited in Paragraph D above shall include documentation of respondent's ability to safely and competently practice nursing. Employer reports shall be submitted directly to the Board at the address cited in Paragraph P below.
- F. Should respondent's employment as a nurse be involuntarily terminated, respondent and/or her employer shall notify the Board, within seventy-two (72) hours, of such termination.
- G. At her expense, respondent shall engage in therapy and counseling for chemical dependency with a licensed or certified therapist during the entire period of probation.
- H. Respondent shall provide a copy of this Memorandum of Decision to her therapist. The Board shall be notified in writing by respondent's therapist, within thirty (30) days of the effective date of this Decision, as to receipt of a copy of this Memorandum of Decision.
- I. Respondent shall cause monthly evaluation reports to be submitted to the Board by her therapist during the entire probationary period. Therapist reports shall be submitted monthly during the first and second years of the probationary period, and quarterly during the third and fourth years of the probationary period. Therapist reports are due on the first business day of the month commencing July 1999.
- J. The therapist reports cited in Paragraph I above shall include documentation of dates of treatment, and an evaluation of respondent's progress, including alcohol and drug free status, and ability to safely and competently practice nursing. Therapist reports shall be submitted directly to the Board at the address cited in Paragraph P below.
- K. At her expense, respondent shall be responsible for submitting to random chain of custody urine and/or blood screens for alcohol and drugs for the entire probationary period, as ordered by therapist, and/or personal physician, and/or employer. Alcohol/drug screening may also be ordered by the Board of Examiners for Nursing to ensure compliance with this Order. Random alcohol/drug screens shall be legally defensible in that chain of custody procedures must be followed throughout the screening process. Respondent shall be responsible for immediately notifying the testing laboratory, her therapist and/or personal physician and the Board of Examiners for Nursing of any drug(s) she is taking.

There must be at least one (1) such random alcohol/drug screen every two weeks during the first and second years of the probationary period, and at least one (1) such random alcohol/drug screen weekly during the third and fourth years of the probationary period.

Random alcohol/drug screens shall be negative for the presence of alcohol and drugs. All positive results shall be confirmed by the Gas Chromatograph Mass Spectrometer (GC/MS) testing method. Chain of custody documentation must accompany all laboratory reports and/or the laboratory reports must indicate that chain of custody procedures have been followed.

Random alcohol/drug screens must include testing for the following substances:

Amphetamines	Methadone
Barbiturates	Methaqualone
Benzodiazepines	Opiates (Metabolites)
Cannabinoids (THC Metabolites)	Phencyclidine (PCP)
Cocaine	Propoxyphene
Meperidine (Demerol)	Ethanol (alcohol)

Reports of random alcohol and drug screens shall be submitted directly to the Board, at the address cited in Paragraph P below, by respondent's therapist, personal physician or the testing laboratory.

- L. Respondent shall not obtain for personal use and/or use alcohol or any drug(s) that has not been prescribed for her, for a legitimate purpose, by a licensed health care practitioner authorized to prescribe medications. Respondent shall not abuse and/or excessively use any drug(s) that are prescribed for a legitimate medical purpose.
- M. Respondent is hereby advised that the ingestion of poppy seeds may produce a positive drug screen result indicating the presence of opiates/morphine and that the ingestion of mouthwash may produce a positive result indicating the presence of alcohol. For that reason, any food substance containing poppy seeds, and mouthwash should be avoided during the probationary period. In the event that a drug/alcohol screen is positive for opiates/morphine and/or alcohol, the ingestion of poppy seeds and/or mouthwash shall not constitute a defense to such positive screen.

- N. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of employment.
- O. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of address.
- P. All correspondence and reports are to be addressed to:

Bonnie Pinkerton, RN, Nurse Consultant
Department of Public Health
Division of Health Systems Regulation
410 Capitol Avenue, MS #12HSR
P. O. Box 340308
Hartford CT 06134-0308

- 4. Any deviation from the terms of probation, without prior written approval by the Board of Examiners for Nursing, shall constitute a violation of probation which will be cause for an immediate hearing on charges of violating this Order. Any finding that respondent has violated this Order will subject respondent to sanctions under §19a-17(a) and (c) of the General Statutes of Connecticut, including but not limited to, the revocation of her license. Any extension of time or grace period for reporting granted by the Board of Examiners for Nursing shall not be a waiver or preclude the Board's right to take subsequent action. The Board of Examiners for Nursing shall not be required to grant future extensions of time or grace periods. Notice of revocation or other disciplinary action shall be sent to respondent's address of record (most current address reported to the Licensure and Registration Section of the Division of Health Systems Regulation of the Department of Public Health or the Board of Examiners for Nursing).
- 5. This Memorandum of Decision becomes effective on the date signed by the Board of Examiners for Nursing.

The Board of Examiners for Nursing hereby informs respondent, Elizabeth King, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Wethersfield, Connecticut this 2nd day of June 1999.

BOARD OF EXAMINERS FOR NURSING

By

